THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3205 of 2007

Dated: 04-06-2007

Between:

Jarpala Baddu Naik and another.

..... PETITIONERS

AND

The State of Andhra Pradesh, rep. by the Secretary, Industries and Commerce Department, Hyderabad,Joint Collector, Krishna District, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The two petitioners are aggrieved by No Objection Certificate (NOC) dated 31.01.2007 issued by fourth respondent, the Mandal Revenue Officer (MRO) in response to letter dated 20.01.2007 addressed by third respondent requesting such NOC to enable grant of lease over an extent of Acs.10.00 in survey No.147 for quarrying quartz to fifth respondent. It is the case of the petitioners that the land in survey Nos.143 to 146 situated at Nidhanampadu Village, Durgi Mandal, Guntur District, is under cultivation of fourteen ryots and the land in survey No.147 admeasuring Acs.10.00 sought by fifth respondent by way of lease is surrendered by these lands and therefore, fifth respondent has to necessarily enter the lease land through the private patta lands. Therefore, they contend that NOC issued by fourth respondent would result in perpetual illegality by fifth respondent.

At the stage of admission itself, fourth respondent filed counter-affidavit. A copy of which was served on the learned counsel for the petitioners on 24.03.2007. In the counter-affidavit it is averred that the lands of the petitioners and others are situated on the southern side of the land in survey No.147, which has separate way/path way for ingress and egress from western side. It is also averred that fifth respondent is not required to resort to blasting operation for quarrying quartz. It is further alleged that the land adjacent to the Government land in survey No.147 was assigned to ryots in 1993 and the petitioners are not cultivating the land and kept them vacant. In the absence of any reply affidavit denying the counter averments, it stands proved that the land in survey No.147 is altogether different and it has separate right of way, and the apprehension of the petitioners that fifth respondent might use the agricultural land for ingress and egress is incorrect. Further the question whether the land in survey No.147 is surrendered by the cultivable lands and the question whether fifth respondent might use the patta lands for ingress and egress are the matters at the realm which cannot be gone into a writ petition. This Court, however, observes that as per Rule 9N of the Andhra Pradesh Minor Mineral Concession Rules, 1966, a lessee is required to use the ingress and egress/path way as proved by the mining authorities.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

04th June, 2007
ghn